



Civil Justice Committee

**March 22nd, 2006
10:15 AM – 12:00 PM
24 House Office Building**

Committee Action

COMMITTEE MEETING REPORT

Civil Justice Committee

3/22/2006 10:15:00AM

Location: 24 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Mark Mahon (Chair)	X		
Dean Cannon	X		
Marti Coley	X		
Carl Domino	X		
Arthenia Joyner	X		
Irving Slosberg	X		
John Stargel	X		
Totals:	7	0	0

Committee meeting was reported out: Wednesday, March 22, 2006 1:19:35PM

COMMITTEE MEETING REPORT

Civil Justice Committee

3/22/2006 10:15:00AM

Location: 24 HOB

HB 135 CS : Charter Schools

☒ Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 7		Total Nays: 0			

Appearances:

Charter School

Georgia Slack (Lobbyist) - Proponent

Broward Schools

8181 NW 36th St..

Miami FL 33166

Phone: 305-608-5110

Charter School

Andreina Figueroa (Lobbyist) - Proponent

Government Affairs Director

1441 Brickell Ave, 15th Floor

Miami FL 33131

Phone: 305-536-1112

Committee meeting was reported out: Wednesday, March 22, 2006 1:19:35PM

COMMITTEE MEETING REPORT

Civil Justice Committee

3/22/2006 10:15:00AM

Location: 24 HOB

HB 637 : Consumer Protection

☒ Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon			X		
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 6		Total Nays: 0			

Committee meeting was reported out: Wednesday, March 22, 2006 1:19:35PM

COMMITTEE MEETING REPORT

Civil Justice Committee

3/22/2006 10:15:00AM

Location: 24 HOB

HB 957 : Homeowners' and Community Associations

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 7		Total Nays: 0			

Appearances:

Homeowners' and Community Associations

Pat Patterson - Proponent

Florida Institute of CPA's

2 South Roscoe Blvd.

Ponte Verda Beach FL 32082

Phone: 904-285-4489

Homeowners' and Community Associations

Travis Moore (Lobbyist) - Proponent

Community Associations Institute of FL

10845 Del Prado Drive, East

Largo FL 33774

Phone: 727-421-6902

Homeowners' and Community Associations

Jennifer J. Green (Lobbyist) - Proponent

Florida Institute of CPA's

325 W. College Ave.

Tallahassee FL 32301

Phone: 850-224-2727

Committee meeting was reported out: Wednesday, March 22, 2006 1:19:35PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. 0957

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A w/o

Council/Committee hearing bill: Civil Justice Committee
Representative Anderson offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 712.11, Florida Statutes, is created to read:

712.11 Covenant revitalization.--A homeowners' association that is not subject to chapter 720 may use the procedures in ss. 720.403-720.407 to revive covenants that have lapsed pursuant to this chapter.

Section 2. Section 718.114, Florida Statutes, is amended to read:

718.114 Association powers.--An association has the power to enter into agreements, to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities. It has this power whether or not the lands or facilities are contiguous to the lands of the condominium, if they are intended to provide enjoyment, recreation, or other use or benefit to the unit owners. All of these leaseholds, memberships, and other possessory or use

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interests existing or created at the time of recording the declaration must be stated and fully described in the declaration. Subsequent to the recording of the declaration, agreements acquiring these leaseholds, memberships, or other possessory or use interests not entered into within 12 months following the recording of the declaration shall be considered a material alteration or substantial addition to the real property that is association property, and the association may not acquire or enter into agreements acquiring these leaseholds, memberships, or other possessory or use interests except as authorized by the declaration as provided in s. 718.113. The declaration may provide that the rental, membership fees, operations, replacements, and other expenses are common expenses and may impose covenants and restrictions concerning their use and may contain other provisions not inconsistent with this chapter. A condominium association may conduct bingo games as provided in s. 849.0931.

Section 3. Subsections (3) and (5) of section 720.302, Florida Statutes, are amended to read:

720.302 Purposes, scope, and application.--

(3) Except as specifically provided in this chapter, this chapter does not apply to:

(a) A community that is composed of property primarily intended for commercial, industrial, or other nonresidential use; or

(b) The commercial or industrial parcels in a community that contains both residential parcels and parcels intended for commercial or industrial use.

(5) Unless expressly stated to the contrary, corporations ~~not for profit~~ that operate residential homeowners' associations in this state shall be governed by and subject to chapter 617

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and this chapter or chapter 607 if incorporated under that chapter. This subsection is intended to clarify existing law.

Section 4. Subsections (5), (6), and (7) of section 720.303, Florida Statutes, are amended to read:

720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls.--

(5) INSPECTION AND COPYING OF RECORDS.--The official records shall be maintained within the state and must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within 10 business days after receipt of a written request for access. This subsection may be complied with by having a copy of the official records available for inspection or copying in the community. If the association has a photocopy machine available where the records are maintained, it must provide parcel owners with copies on request during the inspection if the entire request is limited to no more than 25 pages.

(a) The failure of an association to provide access to the records within 10 business days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this subsection.

(b) A member who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply with this subsection. The minimum damages are to be \$50 per calendar day up to 10 days, the calculation to begin on the 11th business day after receipt of the written request.

(c) The association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but may not impose a

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requirement that a parcel owner demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records to less than one 8-hour business day per month. The association may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The association may charge up to 50 cents per page for copies made on the association's photocopier. If the association does not have a photocopy machine available where the records are kept, or if the records requested to be copied exceed 25 pages in length, the association may have copies made by an outside vendor and may charge the actual cost of copying. The association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members. Notwithstanding the provisions of this paragraph, the following records shall not be accessible to members or parcel owners:

1. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including, but not limited to, any record prepared by an association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association and was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or adversarial administrative proceedings.

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2. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a parcel.

3. Disciplinary, health, insurance, and personnel records of the association's employees.

4. Medical records of parcel owners or community residents.

(d) The association is not required to give a prospective purchaser or lienholder information about the subdivision or the association other than that required to be disclosed under this chapter. It may charge the prospective purchaser, lienholder, or current parcel owner or member a reasonable fee not to exceed \$150 to provide such information, other than information required by law, plus the reasonable cost of photocopying and attorney's fees incurred by the association in connection with the response.

(e) An association is not liable for providing such information in good faith pursuant to a written request if the person providing the information includes a written statement in substantially the following form: "The responses herein are made in good faith and to the best of my ability as to their accuracy."

(6) BUDGETS.--

(a) The association shall prepare an annual budget that sets out the annual operating expenses. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges paid for by the association for recreational amenities, whether owned by the association, the developer, or another person. The association shall provide each member with a copy of the annual

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145 budget or a written notice that a copy of the budget is
146 available upon request at no charge to the member. The copy must
147 be provided to the member within the time limits set forth in
148 subsection (5).

149 (b) In addition to annual operating expenses, the budget
150 may include reserve accounts for capital expenditures and
151 deferred maintenance for which the association is responsible to
152 the extent that the governing documents do not limit increases
153 in assessments, including reserves. If the budget of the
154 association includes reserve accounts, such reserves shall be
155 determined, maintained, and waived in the manner provided in
156 this subsection. Once an association provides for reserve
157 accounts in the budget, the association shall thereafter
158 determine, maintain, and waive reserves in compliance with the
159 provisions of this subsection.

160 (c) If the budget of the association does not provide for
161 reserve accounts governed by this subsection and is responsible
162 for the repair and maintenance of capital improvements that may
163 result in a special assessment, each financial report for the
164 preceding fiscal year required by subsection (7) shall contain
165 the following statement in conspicuous type: THE BUDGET OF THE
166 ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR CAPITAL
167 EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN SPECIAL
168 ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS
169 PURSUANT TO THE PROVISIONS OF SECTION 720.303(6), FLORIDA
170 STATUTES, UPON THE APPROVAL OF NOT LESS THAN A MAJORITY OF THE
171 TOTAL VOTING INTERESTS OF THE ASSOCIATION.

172 (d) An association shall be deemed to have provided for
173 reserve accounts when reserve accounts have been initially
174 established by the developer or when the membership of the
175 association affirmatively elects to provide for reserves. If

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176 reserve accounts are not initially provided for by the
177 developer, the membership of the association may elect to do so
178 upon the affirmative approval of not less than a majority of the
179 total voting interests of the association. Such approval may be
180 attained by vote of the members at a duly called meeting of the
181 membership or upon a written consent executed by not less than a
182 majority of the total voting interests in the community. The
183 approval action of the membership shall state that reserve
184 accounts shall be provided for in the budget and shall designate
185 the components for which the reserve accounts are to be
186 established. Upon approval by the membership, the board of
187 directors shall provide for the required reserve accounts to be
188 included in the budget in the next fiscal year following the
189 approval and in each year thereafter. Once established as
190 provided in this paragraph, the reserve accounts shall be
191 funded, maintained, or have their funding waived in the manner
192 provided in paragraph (f).

193 (e) The amount to be reserved in any account established
194 shall be computed by means of a formula that is based upon
195 estimated remaining useful life and estimated replacement cost
196 or deferred maintenance expense of each reserve item. The
197 association may adjust replacement reserve assessments annually
198 to take into account any changes in estimates of cost or useful
199 life of a reserve item.

200 (f) Once a reserve account is established, the membership
201 of the association, upon a majority vote at a meeting at which a
202 quorum is present, may provide for no reserves or less reserves
203 than required by this section. If a meeting of the unit owners
204 has been called to determine whether to waive or reduce the
205 funding of reserves and no such result is achieved or a quorum
206 is not attained, the reserves as included in the budget shall go

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207 into effect. After the turnover of control of an association by
208 a developer to parcel owners, the developer may vote its voting
209 interest to waive or reduce the funding of reserves. Any vote
210 taken pursuant to this paragraph to waive or reduce reserves
211 shall be applicable only to one budget year.

212 (g) Funding formulas for reserves authorized by this
213 subsection shall be based on either a separate analysis of each
214 of the required assets or a pooled analysis of two or more of
215 the required assets.

216 1. If the association maintains separate reserve accounts
217 for each of the required assets, the amount of the contribution
218 to each reserve account shall be the sum of the following two
219 calculations:

220 a. The total amount necessary, if any, to bring a negative
221 component balance to zero.

222 b. The total estimated deferred maintenance expense or
223 estimated replacement cost of the reserve component less the
224 estimated balance of the reserve component as of the beginning
225 of the period for which the budget will be in effect. The
226 remainder, if greater than zero, shall be divided by the
227 estimated remaining useful life of the component. The formula
228 may be adjusted each year for changes in estimates and deferred
229 maintenance performed during the year and may consider factors
230 such as inflation and earnings on invested funds.

231 2. If the association maintains a pooled account of two or
232 more of the required reserve assets, the amount of the
233 contribution to the pooled reserve account as disclosed in the
234 proposed budget shall be not less than that required to ensure
235 that the balance on hand at the beginning of the period for
236 which the budget will go into effect plus the projected annual
237 cash inflows over the remaining estimated useful lives of all of

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238 the assets that make up the reserve pool are equal to or greater
239 than the projected annual cash outflows over the remaining
240 estimated useful life of all of the assets that make up the
241 reserve pool, based on the current reserve analysis. The
242 projected annual cash inflows may include estimated earnings
243 from investment of principal. The reserve funding formula shall
244 not include any type of balloon payments.

245 (h) Reserve funds and any interest accruing thereon shall
246 remain in the reserve account or accounts and shall be used only
247 for authorized reserve expenditures unless their use for other
248 purposes is approved in advance by a majority vote at a meeting
249 at which a quorum is present. Prior to turnover of control of an
250 association by a developer to parcel owners, the developer-
251 controlled association shall not vote to use reserves for
252 purposes other than that for which they were intended without
253 the approval of a majority of all nondeveloper voting interests
254 voting in person or by limited proxy at a duly called meeting of
255 the association.

256 (7) FINANCIAL REPORTING.--The association shall prepare an
257 annual financial report by a date specified in the bylaws or
258 within 90 60 days after the close of the fiscal year. The
259 association shall, within the time limits set forth in
260 subsection (5), provide each member with a copy of the annual
261 financial report or a written notice that a copy of the
262 financial report is available upon request at no charge to the
263 member. Financial reports shall be prepared as follows:

264 (a) An association that meets the criteria of this
265 paragraph shall prepare or cause to be prepared a complete set
266 of financial statements in accordance with generally accepted
267 accounting principles as adopted by the Florida Board of

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268 Accountancy. The financial statements shall be based upon the
269 association's total annual revenues, as follows:

270 1. An association with total annual revenues of \$100,000
271 or more, but less than \$200,000, shall prepare compiled
272 financial statements.

273 2. An association with total annual revenues of at least
274 \$200,000, but less than \$400,000, shall prepare reviewed
275 financial statements.

276 3. An association with total annual revenues of \$400,000
277 or more shall prepare audited financial statements.

278 (b)1. An association with total annual revenues of less
279 than \$100,000 shall prepare a report of cash receipts and
280 expenditures.

281 2. An association in a community of fewer than 50 parcels,
282 regardless of the association's annual revenues, may prepare a
283 report of cash receipts and expenditures in lieu of financial
284 statements required by paragraph (a) unless the governing
285 documents provide otherwise.

286 3. A report of cash receipts and disbursement must
287 disclose the amount of receipts by accounts and receipt
288 classifications and the amount of expenses by accounts and
289 expense classifications, including, but not limited to, the
290 following, as applicable: costs for security, professional, and
291 management fees and expenses; taxes; costs for recreation
292 facilities; expenses for refuse collection and utility services;
293 expenses for lawn care; costs for building maintenance and
294 repair; insurance costs; administration and salary expenses; and
295 reserves if maintained by the association.

296 (c) If 20 percent of the parcel owners petition the board
297 for a level of financial reporting higher than that required by
298 this section, the association shall duly notice and hold a

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meeting of members within 30 days of receipt of the petition for the purpose of voting on raising the level of reporting for that fiscal year. Upon approval of a majority of the total voting interests of the parcel owners, the association shall prepare or cause to be prepared, shall amend the budget or adopt a special assessment to pay for the financial report regardless of any provision to the contrary in the governing documents, and shall provide within 90 days of the meeting or the end of the fiscal year, whichever occurs later:

1. Compiled, reviewed, or audited financial statements, if the association is otherwise required to prepare a report of cash receipts and expenditures;

2. Reviewed or audited financial statements, if the association is otherwise required to prepare compiled financial statements; or

3. Audited financial statements if the association is otherwise required to prepare reviewed financial statements.

(d) If approved by a majority of the voting interests present at a properly called meeting of the association, an association may prepare or cause to be prepared:

1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

2. A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

3. A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

Section 5. Subsection (2) of section 720.305, Florida Statutes, is amended to read:

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720.305 Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights; failure to fill sufficient number of vacancies on board of directors to constitute a quorum; appointment of receiver upon petition of any member.--

(2) If the governing documents so provide, an association may suspend, for a reasonable period of time, the rights of a member or a member's tenants, guests, or invitees, or both, to use common areas and facilities and may levy reasonable fines, not to exceed \$100 per violation, against any member or any tenant, guest, or invitee. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that no such fine shall exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. A fine shall not become a lien against a parcel unless it is levied for a violation of governing documents that have been recorded in the public records of the county where the property is located. In any action to recover a fine, the prevailing party is entitled to collect its reasonable attorney's fees and costs from the nonprevailing party as determined by the court.

(a) A fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.

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(b) The requirements of this subsection do not apply to the imposition of suspensions or fines upon any member because of the failure of the member to pay assessments or other charges when due if such action is authorized by the governing documents.

(c) Suspension of common-area-use rights shall not impair the right of an owner or tenant of a parcel to have vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

Section 6. Subsection (1) of section 720.306, Florida Statutes, is amended to read:

720.306 Meetings of members; voting and election procedures; amendments.--

(1) QUORUM; AMENDMENTS.--

(a) Unless a lower number is provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be 30 percent of the total voting interests. Unless otherwise provided in this chapter or in the articles of incorporation or bylaws, decisions that require a vote of the members must be made by the concurrence of at least a majority of the voting interests present, in person or by proxy, at a meeting at which a quorum has been attained.

(b) Unless otherwise provided in the governing documents or required by law, and other than those matters set forth in paragraph (c), any governing document of an association may be amended by the affirmative vote of two-thirds of the voting interests of the association.

(c) Unless otherwise provided in the governing documents as originally recorded or permitted by this chapter or chapter 617, an amendment may not materially and adversely alter the proportionate voting interest appurtenant to a parcel or

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390 increase the proportion or percentage by which a parcel shares
391 in the common expenses of the association unless the record
392 parcel owner and all record owners of liens on the parcels join
393 in the execution of the amendment. For purposes of this section,
394 a change in quorum requirements is not an alteration of voting
395 interests. The merger or consolidation of associations under a
396 plan of merger or consolidation pursuant to chapter 607 or
397 chapter 617 is not a material or adverse alteration of the
398 proportionate voting interest appurtenant to a parcel.

399 Section 7. Paragraph (t) is added to subsection (3) of
400 section 720.307, Florida Statutes, to read:

401 720.307 Transition of association control in a
402 community.--With respect to homeowners' associations:

403 (3) At the time the members are entitled to elect at least
404 a majority of the board of directors of the homeowners'
405 association, the developer shall, at the developer's expense,
406 within no more than 90 days deliver the following documents to
407 the board:

408 (t) The financial records, including financial statements
409 of the association, and source documents from the incorporation
410 of the association through the date of turnover. The records
411 shall be audited by an independent certified public accountant
412 for the period from the incorporation of the association or from
413 the period covered by the last audit if an audit has been
414 performed for each fiscal year since incorporation. All
415 financial statements shall be prepared in accordance with
416 generally accepted accounting principles and shall be audited in
417 accordance with generally accepted auditing standards, as
418 prescribed by the Florida Board of Accountancy, pursuant to
419 chapter 473. The certified public accountant performing the
420 audit shall examine to the extent necessary supporting documents

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421 and records, including the cash disbursements and related paid
422 invoices, to determine if expenditures were for association
423 purposes, and the billings, cash receipts, and related records
424 to determine that the developer was charged and paid the proper
425 amounts of assessments. This paragraph applies to associations
426 with a date of incorporation after December 31, 2006.

427 Section 8. Section 720.308, Florida Statutes, is amended
428 to read:

429 720.308 Assessments and charges.--

430 (1) ASSESSMENTS.--For any community created after October
431 1, 1995, the governing documents must describe the manner in
432 which expenses are shared and specify the member's proportional
433 share thereof. Assessments levied pursuant to the annual budget
434 or special assessment must be in the member's proportional share
435 of expenses as described in the governing document, which share
436 may be different among classes of parcels based upon the state
437 of development thereof, levels of services received by the
438 applicable members, or other relevant factors. While the
439 developer is in control of the homeowners' association, it may
440 be excused from payment of its share of the operating expenses
441 and assessments related to its parcels for any period of time
442 for which the developer has, in the declaration, obligated
443 itself to pay any operating expenses incurred that exceed the
444 assessments receivable from other members and other income of
445 the association. This section does not apply to an association,
446 no matter when created, if the association is created in a
447 community that is included in an effective development-of-
448 regional-impact development order as of the effective date of
449 this act, together with any approved modifications thereto.

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(2) GUARANTEE OF COMMON EXPENSES.--

(a) Establishment of a guarantee.--If a guarantee of the assessments of parcel owners is not included in the purchase contracts or declaration, any agreement establishing a guarantee shall be effective only upon the approval of a majority of the voting interests of the members other than the developer. Approval shall be expressed at a meeting of the members, voting in person or by limited proxy, or by agreement in writing without a meeting if provided in the bylaws. Such guarantee shall meet the requirements of this section.

(b) Guarantee period.--The period of time for the guarantee shall be indicated by a specific beginning and ending date or event.

1. The ending date or event shall be the same for all of the members of a homeowners' association, including members in different phases of the development.

2. The guarantee may provide for different intervals of time during a guarantee period with different dollar amounts for each such interval.

(c) The guarantee may provide that after the initial stated period the developer has an option to extend the guarantee for one or more additional stated periods. The extension of a guarantee is limited to extending the ending date or event; therefore, the developer does not have the option of changing the level of assessments guaranteed.

(3) MAXIMUM LEVEL OF ASSESSMENTS.--The stated dollar amount of the guarantee shall be an exact dollar amount for each parcel identified in the declaration. Regardless of the stated dollar amount of the guarantee, assessments charged to a member shall not exceed the maximum obligation of the member based on

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the total amount of the adopted budget and the member's proportionate ownership share of the assessments.

(4) CASH FUNDING REQUIREMENTS DURING GUARANTEE.--The cash payments required from the guarantor during the guarantee period shall be determined as follows:

(a) If at any time during the guarantee period the funds collected from member assessments at the guaranteed level and other revenues collected by the association are not sufficient to provide payment, on a timely basis, of all assessments, including the full funding of the reserves unless properly waived, the guarantor shall advance sufficient cash to the association at the time such payments are due.

(b) Expenses incurred in the production of nonassessment revenues, not in excess of the nonassessment revenues, shall not be included in the assessments. If the expenses attributable to nonassessment revenues exceed nonassessment revenues, only the excess expenses must be funded by the guarantor. Interest earned on the investment of association funds may be used to pay the income tax expense incurred as a result of the investment, such expense shall not be charged to the guarantor, and the net investment income shall be retained by the association. Each such nonassessment revenue-generating activity shall be considered separately. Any portion of the parcel assessments that is budgeted for designed capital contributions of the association shall not be used to pay operating expenses.

(5) CALCULATION OF GUARANTOR'S FINAL OBLIGATION.--The guarantor's total financial obligation to the association at the end of the guarantee period shall be determined on the accrual basis using the following formula: the guarantor shall pay any deficits that exceed the guaranteed amount, less the total regular periodic assessments earned by the association from the

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members other than the guarantor during the guarantee period,
regardless of whether the actual level charged was less than the
maximum guaranteed amount.

(6) EXPENSES.--Expenses incurred in the production of
nonassessment revenues, not in excess of the nonassessment
revenues, shall not be included in the operating expenses. If
the expenses attributable to nonassessment revenues exceed
nonassessment revenues, only the excess expenses must be funded
by the guarantor. Interest earned on the investment of
association funds may be used to pay the income tax expense
incurred as a result of the investment, such expense shall not
be charged to the guarantor, and the net investment income shall
be retained by the association. Each such nonassessment revenue-
generating activity shall be considered separately. Any portion
of the parcel assessment that is budgeted for designated capital
contributions of the association shall not be used to pay
operating expenses.

Section 9. Subsection (3) is added to section 720.402,
Florida Statutes, to read:

720.402 Publication of false and misleading information.--

(3) This section does not limit any rights provided by
common law.

Section 10. This act shall take effect July 1, 2006.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

A bill to be entitled

An act relating to community associations; creating s.
712.11, F.S.; authorizing certain associations to revive
lapsed covenants; amending s. 718.114, F.S.; providing
that certain leaseholds, memberships, or other possessory

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

or use interests shall be considered a material alteration or substantial addition to certain real property; amending s. 720.302, F.S.; revising application; amending s. 720.303, F.S.; authorizing associations to charge specified fees for providing certain information to prospective purchasers or lienholders; limiting liability for providing such information; revising what must be included in an association's annual budget; providing for reserve accounts for capital expenditures and deferred maintenance; revising certain time requirements relating to annual reports of associations; amending s. 720.305, F.S.; prohibiting a fine levied by an association from becoming a lien unless the governing documents claimed to have been violated are recorded in the public records; amending s. 720.306, F.S.; providing that certain mergers or consolidations do not alter specified voting interests; amending s. 720.307, F.S.; providing additional documents that the developer must deliver at the time the association members elect the board of directors; amending s. 720.308, F.S.; providing that a guarantee of common expenses shall be effective under certain circumstances; requiring the guarantee to meet certain requirements; authorizing the guarantee to provide certain requirements; requiring the stated dollar amount of the guarantee to be an exact dollar amount for each parcel identified in the declaration; providing payments required from the guarantor to be determined in a certain manner; providing a formula to determine the guarantor's total financial obligation to the association; providing that certain expenses incurred in the production of certain revenues shall not be included in the operating expenses; amending

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

573 s. 720.402, F.S., relating to publication of false or
574 misleading information; clarifying that the section does
575 not limit common-law rights; providing an effective date.

COMMITTEE MEETING REPORT

Civil Justice Committee

3/22/2006 10:15:00AM

Location: 24 HOB

HB 1009 : Real Estate Profession Regulation

☒ Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon			X		
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 6		Total Nays: 0			

Appearances:

Real Estate Profession Regulation
Trey Goldman (Lobbyist) - Proponent
Florida Association of Realtors
200 S. Monroe St.
Tallahassee FL 32301
Phone: 850-224-1400

Committee meeting was reported out: Wednesday, March 22, 2006 1:19:35PM

COMMITTEE MEETING REPORT

Civil Justice Committee

3/22/2006 10:15:00AM

Location: 24 HOB

HB 1077 CS : Motor Vehicle Dealers

<input checked="" type="checkbox"/> Favorable					
	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg				X	
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 6		Total Nays: 0			

Appearances:

Motor Vehicle Dealers

Ted Smith (Lobbyist) - Proponent

FL Automobile Dealers Association

Motor Vehicle Dealers

Wade Hopping (Lobbyist) - Proponent

Alliance of Automobile Manufacturers

710 N. Ride

Tallahassee FL 32303

Phone: 850-222-7500

Motor Vehicle Dealers

Ken Plante (Lobbyist) - Proponent

J. M. Family

324 E. Virginia St.

Tallahassee FL 32301

Phone: 850-224-9100

Committee meeting was reported out: Wednesday, March 22, 2006 1:19:35PM

COMMITTEE MEETING REPORT

Civil Justice Committee

3/22/2006 10:15:00AM

Location: 24 HOB

HB 1341 : Fiduciary Lawyer-Client Privilege

☒ Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Dean Cannon	X				
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 7		Total Nays: 0			

Appearances:

Fiduciary Lawyer-Client Privilege
Martha Edenfield (Lobbyist) - Proponent
The Real Property Probate & Trust
P. O. Box 10095
Tallahassee FL 32301
Phone: 850-222-3533

Committee meeting was reported out: Wednesday, March 22, 2006 1:19:35PM

COMMITTEE MEETING REPORT

Civil Justice Committee

3/22/2006 10:15:00AM

Location: 24 HOB

HB 1527 : Parental Notification of Termination of a Minor's Pregnancy

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley	X				
Carl Domino		X			
Arthenia Joyner		X			
Irving Slosberg		X			
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 4		Total Nays: 3			

Appearances:

Parental Notification of Termination of a Minor's Pregnancy

Karen Woodell (Lobbyist) - Opponent

Florida National Organization for Women

579 E. Call St.

Tallahassee FL 32301

Parental Notification of Termination of a Minor's Pregnancy

Stephanie Gortman (Lobbyist) - Opponent

FL Assoc. of Planned Parenthood Affiliates

2300 N. FL Mango Rd.

West Palm Beach FL 33409

Phone: 561-472-9977

Parental Notification of Termination of a Minor's Pregnancy

Larry Spalding (Lobbyist) - Opponent

American Civil Liberties Union

314 W. Jefferson St.

Tallahassee FL 32301

Phone: 850-425-1050

Committee meeting was reported out: Wednesday, March 22, 2006 1:19:35PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 1527**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A W/O

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Stargel offered the following:

Amendment

On page 5 , line(s) 135 and 138,
remove: granted

and insert: entered

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. **HB 1527**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A w/o

1 Council/Committee hearing bill: Civil Justice Committee

2 Representative(s) Stargel offered the following:

3
4 **Amendment**

5 Remove line(s) 34 and insert:
6 guardian of the minor, by regular mail and by certified mail,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3 (for drafter's use only)

Bill No. **HB 1527**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A w/o

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Stargel offered the following:

Amendment

Remove line(s) 76 and insert:
by regular mail and by certified mail, return receipt requested,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

Bill No. **HB 1527**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A w/o

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Stargel offered the following:

Amendment

Remove line(s) 94 and insert:
regular mail and by certified mail, return receipt requested,



Committee on

Civil Justice

Action

Date

3/22/2006

HOUSE AMENDMENT FOR DRAFTING PURPOSES ONLY
(may be used in Committee, but not on House Floor)

Amendment No. 5

Bill No. HB 1527

(For filing with the Clerk, Committee and Member Amendments **must** be prepared on computer)

If amendment is text of another bill insert:
Bill No. _____ Draft No. _____

Representative(s) ~~The Committee on~~ Stargel

A w/o

offered the following amendment:

Amendment

on page _____, line 132

Remove: within 48 hours of

and Insert: upon

COMMITTEE MEETING REPORT

Civil Justice Committee

3/22/2006 10:15:00AM

Location: 24 HOB

HB 1537 : Legal Actions

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon				X	
Marti Coley	X				
Carl Domino			X		
Arthenia Joyner	X				
Irving Slosberg				X	
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 4		Total Nays: 0			

Committee meeting was reported out: Wednesday, March 22, 2006 1:19:35PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 1537

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A w/o

1 Council/Committee hearing bill: Civil Justice Committee
2 Representative(s) Stargel offered the following:

3
4 **Amendment (with title amendment)**

5 Remove line(s) 16-33

6
7 ===== T I T L E A M E N D M E N T =====

8 Remove line(s) 2-5 and insert:

9 An act relating to legal actions; amending s. 48.193, F.S.;
10 specifying an

000000

COMMITTEE MEETING REPORT

Civil Justice Committee

3/22/2006 10:15:00AM

Location: 24 HOB

HB 1621 : Coastal Properties Disclosure Statements

☒ *Temporarily Deferred*

Committee meeting was reported out: Wednesday, March 22, 2006 1:19:35PM

COMMITTEE MEETING REPORT

Civil Justice Committee

3/22/2006 10:15:00AM

Location: 24 HOB

Summary:

Civil Justice Committee

Wednesday March 22, 2006 10:15 am

HB 135 CS	Favorable	Yeas: 7	Nays: 0
HB 637	Favorable	Yeas: 6	Nays: 0
HB 957	Favorable With Committee Substitute	Yeas: 7	Nays: 0
HB 1009	Favorable	Yeas: 6	Nays: 0
HB 1077 CS	Favorable	Yeas: 6	Nays: 0
HB 1341	Favorable	Yeas: 7	Nays: 0
HB 1527	Favorable With Committee Substitute	Yeas: 4	Nays: 3
HB 1537	Favorable With Committee Substitute	Yeas: 4	Nays: 0
HB 1621	Temporarily Deferred		

Committee meeting was reported out: Wednesday, March 22, 2006 1:19:35PM